IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17597 of 2004

Between:

Byreddy Appalanarasamma, W/o Late Appalaswamy,
R/o Dummugudem Mandal, Khammam District

..... PETITIONER

AND

1 The Agent to Government/ Collector, Khammam District, Khammam
2 The Joint Collector, Khammam District
3 The Sub Collector, Bhadrachalam, Khammam District
4 The Mandal Revenue Officer, Dummugudem Mandal, Khammam District
5 Byreddy Suryanarayana, R/o Ramachandrapuram,
Dummugudem Mandal, Khammam District
6 Byreddy China Venkateswara Rao,
R/o Ramachandrapuram, Dummugudem Mandal,
Khammam District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ, Order or direction calling for the records connected with the order passed in case No.R.O.R. 45/1999 on the file of the Court of the 2nd respondent dated 02-08-2004 and quash the same as the same is illegal and contrary to law and without jurisdiction and pass such other order or orders,

Counsel for the Petitioner:MR.K.MANIKYALA RAO

Counsel for the Respondent Nos 1 to 4.: GP FOR REVENUE

Counsel for Respondents 5 and 6:Mr. Hari Sridhar.

The Court at the admission stage made the following :

ORDER:

Heard the learned counsel for the petitioner, learned G.P. for Revenue appearing for Respondents 1 to 4 and Mr. Hari Sreedhar, Caveator for Respondents 5 and 6 and with their consent the writ petition is disposed of at the stage of admission.

On the death of the petitioner's husband, the lands which were standing in the name of her husband, were mutated in the name of the petitioner and pattedar passbook and title deeds were issued in faour of the petitioner under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act').

The respondents 5 and 6, who allege that they are the sons of the husband of the petitioner, preferred an appeal before the 3rd respondent, who remanded the matter to the 4th respondent. On such remand, the 4th respondent passed an order dividing the property into three shares between the petitioner and the

respondents 5 and 6. Aggrieved by the same, the petitioner filed an appeal before the 3rd respondent who cancelled the pattedar passbooks issued by the 4th respondent to the respondents 5 and 6 by allowing the appeal of the petitioner directing the respondents 5 and 6 to approach the competent civil court for succession of the property by order dated 30.11.1998 in R.O.R. Appeal No.2/DGM/97. On such allowing of appeal, the respondents 5 and 6 carried the matter in revision. When the said revision is pending, the respondents 5 and 6 filed O.S.No.127 of 2000 before the Agent to the Government, Khammam, for declaration to declare that the respondents 5 and 6 are sons of late Byreddy Appalaswamy and for partition of the property, in which they also filed I.A.No.59 of 2000 for interim injunction restraining the petitioner from interfering with the possession and enjoyment of their respective shares. The first respondent, who entertained the above suit directed the petitioner to deposit half of the amount obtained from the sale of the produce got from suit land to the account of suit by order dated 20.11.2001. Questioning the same, the petitioner filed CRP No.5726 of 2001 which was disposed of with a direction to the 1st respondent to dispose of the suit O.S.No.127 of 2000 expeditiously, which was later on transferred to the Senior Civil Judge Court, Khammam at the instance of respondents 5 and 6. When the matter is pending, the 2nd respondent, without assigning any reasons, disposed of case No.R.O.R. 45 of 1999 with a direction to the MRO to conduct fresh enquiry under the provisions of R.O.R. Act, particularly as per Rule 9 (1) (c)(ii) by giving notice and by following due process of law. Hence the present writ petition questioning the legality of the order.

When once the 3rd respondent allowed the appeal filed by the petitioner by canceling the pattedar passbooks issued in favour of respondents 5 and 6 with a direction to approach the civil court and once the civil court seized of the matter, no proceedings can be undertaken by the MRO and they have to await the result of the civil suit and only after such disposal of the civil suit the revenue records can be amended in the light of the declaration that is made by the civil court as per Section 8 (2) of the Act, which is not disputed by the learned counsel for respondents.

In view of the same, the writ petition is allowed and the impugned order passed by the Joint Collector is set aside and the parties are at liberty to approach the revenue officials after the disposal of the civil suit filed by the respondents 5 and 6 for suitable modification and the entries in the revenue records as per the declaration so obtained by them pending suit. No costs.

30.9.2004

Note:

CC in four days.

BO CVM

ASST. REGISTRAR

To,

1 The Agent to Government/ Collector, Khammam District, Khammam
2 The Joint Collector, Khammam District
3 The Sub Collector, Bhadrachalam, Khammam District
4 The Mandal Revenue Officer, Dummugudem Mandal, Khammam District
5 2 CCs to G.P. for Revenue, High Court of A.P., Hyderabad (OUT).

6 2 CD copies.